

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

MARIA YOLANDA MAYORGA	§	
	§	
V.	§	CIVIL ACTION NO. _____
	§	
MARMAXX OPERATING CORP.	§	JURY DEMANDED

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**DEFENDANT MARMAXX OPERATING CORP.'S NOTICE OF REMOVAL**

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TO THE HONORABLE UNITED STATES DISTRICT COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Marmaxx Operating Corp. files its notice of removal of this civil action to the United States District Court for the Southern District of Texas, McAllen Division. In support of this Notice of Removal, Defendant respectfully shows as follows:

1. On January 4, 2021, Plaintiff filed her Original Petition in Cause No. CL-21-0073-H; *Maria Yolanda Mayorga v. Marmaxx Operating, Corp.*, in the 334<sup>th</sup> Count Court at Law No. 8 of Hidalgo County, Texas, naming as the Defendant Marmaxx Operating Corp. Plaintiff's return of service indicates that Citation was served on January 19, 2021. *See* Exhibit A, an index of documents filed in the state court proceeding. Therefore, Defendant's notice of removal is timely under 28 U.S.C. § 1446(b).

2. True and correct copies of all documents filed in the state court proceeding are attached hereto and incorporated herein by reference. *See* Exhibit A. Attached as Exhibit B is a list of all counsel of record.

3. Defendant would show that this case is removable under 28 U.S.C. § 1441, and the Court has jurisdiction over this matter, because this suit involves a controversy between citizens

of different states and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00. *See* 28 U.S.C. §§ 1332 and 1441.

4. There is complete diversity between the parties. At the time of the filing of this action, and at the time of removal, Plaintiff was and is a citizen of the State of Texas. Defendant Marmaxx Operating Corp., the entity that owns and operates the store where the incident occurred, was and is a corporation incorporated under the laws of the State of Delaware, with its principal place of business at 770 Cochituate Rd., Framingham, MA 01701.

5. The matter or amount in controversy in this suit exceeds the sum of \$75,000.00, exclusive of interest and costs. In her Original Petition, Plaintiff seeks damages “more than \$100,000 but no more than \$250,000.” *See* paragraph III in Plaintiff’s Original Petition, attached as part of Exhibit A.

6. In her Original Petition, Plaintiff claims she suffered serious bodily injuries as a result of Defendant’s alleged negligence. *See* paragraph IV in Plaintiff’s Original Petition, attached as part of Exhibit A. Plaintiff further alleges damages including: Reasonable medical expenses in the past and future; pain and suffering in the past and future; mental anguish in the past and future; physical impairment in the past and future; inconvenience. *See* Paragraph VIII of Plaintiff’ Original Petition, attached as part of Exhibit A.

8. This Notice of Removal will be provided to Plaintiff by service of a copy upon her counsel of record, in accordance with 28 U.S.C. §1446(d). Further, a copy of this Notice of Removal will be filed with the District Clerk of Hidalgo County, in accordance with 28 U.S.C. §1446(d).

9. Therefore, Defendant Marmaxx Operating Corp. prays that this cause be removed from the County Court at Law No. 8 of Hidalgo County, Texas, to this Court, and for all other relief to which Defendant may be entitled.

Respectfully submitted,

HARTLINE BARGER LLP

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**ATTORNEYS FOR DEFENDANT,  
MARMAXX OPERATING CORP.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served upon the parties listed below by the method(s) indicated on February 10, 2021.

Daniel Santos  
Law Office of Daniel Santos, P.C.  
605 E. Violet Ave., Ste 3  
McAllen, Texas 78504  
*Via Email and/or EService: dsantos@dsantoslaw.com*

/s/ Kevin B. Tompkins  
Kevin B. Tompkins